

Helping people get equal access to justice



**Should we use intermediaries in Tasmania to help
people tell their stories?**



How to use this document



This information is written in an easy to read way. We use pictures to explain some ideas.



This document has been written by the Tasmania Law Reform Institute (TLRI).

When you see the word 'we', it means TLRI.



Some words are written in **bold**. We explain what these words mean. There is a list of these words on page 28.



This Easy Read document is a summary of another document.



You can find the other document on our website at www.utas.edu.au/law-reform



You can ask for help to read this document.

A friend, family member or support person may be able to help you.

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About the criminal justice system

The **criminal justice system** is how we make sure:



- people follow the law



- people who commit crimes are punished



- people who are victims of crime feel safe again.



Sometimes people have to deal with the criminal justice system in Tasmania.

A person dealing with the system could be:



- the **victim** of a crime – it happened to them



- a **witness** to a crime – they saw or know what happened



- a **suspect** – they are accused of a crime.

These people might need to talk to:



- the police



- a **lawyer**



- a **judge**.



They might need to visit a police station and talk about something that has happened.



They might need to take part in a **trial** through the court system.

A trial involves all the things that happen when somebody has been accused of a crime and has to go to court.



They might need to give evidence – talk to the court or to a judge about what they know.



They might be part of a **hearing**.

A hearing is a meeting where all of the people involved talk about a case.



This document is about making sure everybody can use the justice system:

- fairly
- equally.

What are complex communication needs?



Sometimes people have trouble communicating.

These people might have a disability or impairment.

Their disability or impairment could be:



- mental – it affects the way they feel and behave
- intellectual – it affects the way they think and act
- physical – it affects their body
- cognitive – it affects the way they process information.



They might have a learning difficulty.



They might have language problems.

They can have trouble:



- expressing themselves clearly



- understanding information they have been given



- making other people understand them



- talking to people they don't know.



We call all of these things '**complex communication needs**'.

Questions to think about

Are the words 'people with complex communication needs' the best words to use to talk about these people?

Are there other words we should use instead?



Taking part in the criminal justice system



People with complex communication needs have the same rights as everybody else.



They have a right to fair and equal treatment when they come in contact with the criminal justice system.



Some people have problems getting fair treatment.



For example, some people who are accused of crimes are more likely to say they're guilty because they don't believe they can explain their side of the story.

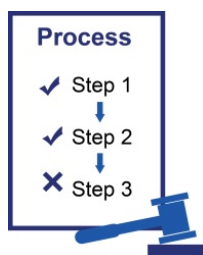
Victims of crimes might have trouble:



- giving evidence



- proving that the crime did happen to them.



These kinds of problems can affect the results at any step in the process.



These problems can affect the way cases turn out.



And the way some things are done in the justice system can make the problems worse.

Questions to think about

Do people with complex communication needs face barriers when they deal with the police as:

- victims?
- witnesses?
- suspects?

Do people with complex communication needs face barriers when they deal with:

- their own lawyer?
- lawyers for other parties involved in their case?

Do people with complex communication needs face barriers when they take part in:

- hearings?
- trials?
- court proceedings?





We can help people with complex communication needs get access to justice.

There are 2 main problems that need to be fixed.

1. We need to know:

- if somebody has complex communication needs
- what their communication needs are.



We then need to:

- work out ways to tell if someone has complex communication needs
- improve how we communicate with those people.



2. There are ways we can change the way we communicate so we can meet the needs of more people.



We can employ people who can help people with complex communication needs.



We call them **communication assistants** or **intermediaries**.

Intermediaries are people who can:



- make communication easier



- work out what communication problems there may be



- suggest ways we can deal with these communication problems



- give advice about what questions to ask and how to ask them



- make sure questions are understood and answers are given.



We would call this an **intermediary scheme**.

An intermediary scheme could help:



- adults with complex communication needs



- children.

Questions to think about

Who should be able to use an intermediary scheme?

- anybody with complex communication needs?
- children?
- anybody who is under 18?
- only victims of certain crimes?



When should communication assistance be available?



- before police interviews?



- during police interviews?



- when talking to members of the legal profession?



- only during trials?



- for pre-recording before a trial?



Should some people be made to use communication assistance?

This means some people would not have a choice about having an intermediary support them.

What would their situation need to be like?



Should intermediaries act:

- as interpreters only – helping with communication?



- as advisors
 - to police?
 - to lawyers?
 - to the courts?



- to step in during questioning to make sure the questions being asked are at the right level?



Should intermediaries have any particular qualifications?

A qualification is a certificate or other document that shows someone is professional and has the skills needed to do their job.

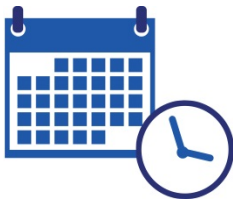


Should intermediaries with special qualifications only work on certain cases that relate to the area they are an expert in?



Who should decide if somebody is right for the job of being an intermediary?

Who should make decisions about:

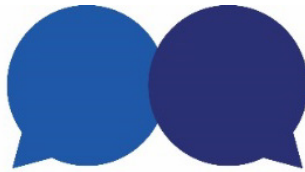


- when to use an intermediary?



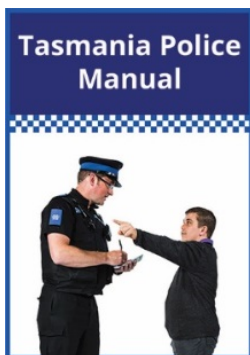
- which intermediary to use?

What are things like now?



There are already some ways that police and lawyers can get help for people with complex communication needs.

For the police

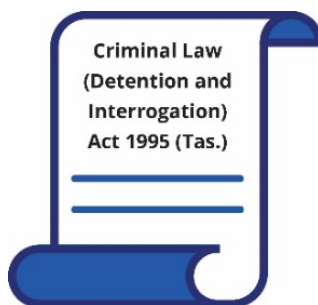


The *Tasmania Police Manual* tells police how to interact with people with complex communication needs.



It also gives police information about how to interact with children.

They are only guidelines though.



The *Criminal Law (Detention and Interrogation) Act 1995 (Tas.)* tells police how they should handle people who are suspects.

It doesn't tell them how to handle:



- victims



- witnesses.



It doesn't allow for people with complex communication needs to get help with communication.



There is a list of disability service providers who are available 24 hours a day that police can use.

Questions to think about

Are the police doing enough to support people with complex communication needs?

Do the police have enough training in how they should deal with people with complex communication needs?

Should we find a new way to help police support people with complex communication needs?

Would using communication assistants be a good way to help the police support people?

What problems might police face if there was an intermediary scheme?

Should the laws be updated to make sure people with complex communication needs can get help with communication if they are:

- a suspect?
- a witness?
- a victim?



For lawyers and members of the legal profession



If you have been accused of a crime you will need a **lawyer**.

Lawyers are people who know the law and can help you if your case goes to trial.



Members of the legal profession include judges and other court staff.



There are no laws or policies that support them when they need to interact with people with complex communication needs.



There is a Witness Assistance Service that helps the government's legal staff talk to people with complex communication needs.



There are laws that allow for evidence given by children and '**special witnesses**' to be recorded.

A special witness is somebody who is not able to take part in a trial in the same way as other people because:



- they have a disability or impairment



- the stress of the trial is a risk to their health and wellbeing



- it would be very hard for them to give evidence.



Their evidence can be recorded before the trial starts so they don't have to appear in court.



Hearings can be held to make sure everybody knows the rules about how this should be done.

These are called **pre-trial directions hearings**.

Everybody involved in the case can be told how the trial should work so everybody's rights are:



- respected
- protected.



Judges have to make sure everybody involved in a trial does things the right way but this can be hard.



There are no laws that say communication assistants or intermediaries should be used to help people with complex communication needs during trials.

Questions to think about

Do people who work in the legal profession get enough training in how they should deal with people with complex communication needs?

Do people in the legal profession get enough support to deal with people with complex communication needs?

Would using communication assistants be a good way to help people who work in the legal profession?

What type of support would people with complex communication needs need most when they deal with people who work in the legal profession?

Should every person who has complex communication needs have a ground rules hearing before their case goes to trial?

What might get in somebody's way if they were trying to use an intermediary scheme?



Where have intermediaries already been used?



Intermediary schemes have been used:

- in other parts of Australia
- around the world.

Intermediaries have been given responsibilities including:



- giving people who work in the justice system advice about how to ask questions including:
 - the police
 - lawyers
 - the courts



- translating questions and answers



- making sure the questions asked are easy to understand



- stepping in if the questions asked are not easy to understand.



So far these schemes have been a good way to help people with communication needs take part in the criminal justice system.

Questions to think about

Where should the money for a Tasmanian intermediary scheme come from?

What training do intermediaries need?

Where would be the best place for people to go to be trained as intermediaries?

What could the Tasmanian Government do so an intermediary scheme could be set up in Tasmania?



Tell us what you think



We'd like to know what you think about an intermediary scheme.



We have asked a lot of questions.

You can answer as many as you like but you don't need to answer them all.

There are different ways you can tell us what you think. You can complete a submission template and send it to us.



You can find the form to use on our website
www.utas.edu.au/law-reform

- send it by email to
Rikki.Mawad@utas.edu.au
- post it to
Tasmania Law Reform Institute
Private Bag 89
HOBART TAS 7001



- make an appointment to meet with somebody from TLRI to talk about your ideas



- come to one of the meetings we will be co-hosting with Equal Opportunity Tasmania.

We might share what you have told us:



- on our website
- in a report.



If you don't want us to share what you have said, please tell us.

We will respect your privacy.

Word list



Case

When your situation goes through the justice system.



Communication assistant

A person who can help people with complex communication needs.



Complex communication needs

Sometimes people have trouble with communication due to a disability or impairment.



Court

A place where legal problems are solved by a judge and/or a jury.



Court proceedings

The way things are done in the court system.



Crime

An action that is against the law.



Criminal

A person who commits a crime.



Criminal justice system

All of the services and processes that are involved when a crime has been committed.



Evidence

Proof that something is true.



Pre-trial directions hearing

A special meeting between the judge and the lawyers that sets out the rules for a trial.



Hearing

A meeting for all of the people involved to talk about a case.



Intermediary

A person who can help people with complex communication needs.



Intermediary scheme

A way to help people with complex communication needs take part in the justice system.



Judge

The person who manages a court and has decision-making power.



Justice

Making things right again after a crime has been committed.



Lawyer

An expert in the law who can help you if you have a legal problem.



Special witness

A special witness is somebody who is not able to take part in a trial in the same way as other people because:

- they have a disability or impairment
- the stress of the trial is a risk to their health and wellbeing

it would be very hard for them to give evidence.



Suspect

A person who has been accused of committing a crime.



Trial

All the things that happen when somebody has been accused of a crime and has to go to court.



Victim

A person who has had a crime committed against them.



Witness

A person who:

- knows what happened during a crime
- saw a crime happening.

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